



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/583,175

11/01/2007

James S. Neumiller

539.6011.2

8234

22859

7590

04/29/2010

INTELLECTUAL PROPERTY GROUP

FREDRIKSON & BYRON, P.A.

200 SOUTH SIXTH STREET, SUITE 4000

MINNEAPOLIS, MN 55402

EXAMINER

HAYES, ANDREW L

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

04/29/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,175	Applicant(s) NEUMILLER ET AL.	
	Examiner ANDREW HAYES	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,22,24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) 1,3-10,22,24,26-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/28/2010; 4/20/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-10, 22, 24, and 26-27 have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's amendments.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4-7, 9-10, 22, 24, and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Elaz et al. (US 2005/0124866).

Regarding claim 1, 4-5, 7 and 9, Elaz et al. describes a centralized base station having an ability to dock treatment and monitoring modules thereon. In one case it is stated, that one of the docked treatment modules may be a defibrillator module (e.g. [0031]). Elaz et al. describes that when the monitoring module is disconnected from the base station it may still function using it's own internal battery power, but that it is powered by a base station's power bus when plugged in to a dock (e.g. [0033]-[0035]), and the monitoring module's batteries are conditioned to begin charging while the base station's power module is plugged in.

Regarding claims 6 and 10, Elaz et al. discloses that the power supply to the central unit may include an external power supply link 450 as well as it's own batteries. In one embodiment, the batteries are used as the principle power supply to the central unit and the external power supply is merely used to recharge its own internal battery supplies. This embodiment necessitates that this central processor's battery is able to provide power and to recharge the batteries of attached modules in order to retain its previously described functionality. (e.g. [0050])

Regarding claims 22, 24, and 26, it is stated that the centralized device may exert control over the operation of the different modules and that the different modules may be also be used under their own control when not connected via the power link. (e.g. [0043]) It is stated that the central processor manages power-on/off status using the power supply connection, and this necessitates that the monitor module may be powered off after receiving a signal over the power communications link. (e.g. [0034])

4. Claims 1, 5, 7-9, are rejected under 35 U.S.C. 102(b) as being anticipated by Gehab et al. (US 5,685,314).

Regarding claims 1, 5, 7, and 9, Gehab et al. discloses a docking station with connection for connecting to a modular portable monitor unit, the monitor having a battery that allows portable use (e.g. Col. 4, lines 12-26) , but that is able to operate using power supplied by the docking station (e.g. Col. 5 lines 56-64). In one embodiment, the docking station further facilitates treatment through data sharing between the monitor and a connected defibrillator unit (e.g. Col. 6, lines 9-12).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8, and 27 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Elaz et al. (US 2005/0124866)..

Regarding claims 3 and 8, it can be seen from Elaz et al. that as the central unit is configured to display battery levels, it follows that the device is further configured not to continue charging the monitor device when the monitoring module's batteries cannot be charged any further (therefore it is inherent that the device selectively charges based on depleted battery conditions.)

Regarding claim 27, while it isn't directly stated, this property is inherent to the patient monitor because if the pod necessarily operable to power down when it runs out of stored battery power after a predetermined period of time. In the alternative, sleep modes are well known and would be an obvious element to implement for power saving purposes.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW HAYES whose telephone number is (571)270-1906. The examiner can normally be reached on Monday - Friday 9:30 AM - 5:00 PM with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on (571)272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. R. E./

Primary Examiner, Art Unit 3762

/A. H./

Examiner, Art Unit 3762

4/23/2010